

Order

Michigan Supreme Court
Lansing, Michigan

October 14, 2015

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2015-05

Stephen J. Markman

Brian K. Zahra

Bridget M. McCormack

David F. Viviano

Richard H. Bernstein

Joan L. Larsen,

Justices

Proposed Amendments of Rule 3.979
of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering amendments of Rule 3.979 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 3.979 Juvenile Guardianships

(A)-(B) [Unchanged.]

(C) Court Jurisdiction; Review Hearings; Lawyer-Guardian ad Litem.

(1) Jurisdiction.

- (a) Except as otherwise provided in this rule, the~~The~~ court's jurisdiction over a juvenile guardianship shall continue until terminated by court order. The court's jurisdiction over a juvenile under section 2(b) of the Juvenile Code, MCL 712A.2(b), and the jurisdiction of the MCI under section 3 of 1935 PA 220, MCL 400.203, shall be terminated after the court appoints a juvenile guardian under this section and conducts a review hearing pursuant to MCR 3.975 when parental rights to the child have not been terminated, or a review hearing pursuant to MCR 3.978 when parental rights to the child have been

~~terminated. Upon notice by the Department of Human Services that extended guardianship assistance beyond age 18 will be provided to a youth pursuant to MCL 400.665, the court shall retain jurisdiction over the guardianship until that youth no longer receives extended guardian assistance.~~

(b) Unless terminated by court order, the court's jurisdiction over a juvenile guardianship ordered under MCL 712A.19a or MCL 712A.19c for a youth 16 years of age or older shall continue until 120 days after the youth's eighteenth birthday. Upon notice by the Department of Health and Human Services that extended guardianship assistance beyond age 18 will be provided to a youth pursuant to MCL 400.665, the court shall retain jurisdiction over the guardianship until that youth no longer receives extended guardianship assistance.

- (2) Review Hearings. The review hearing following appointment of the juvenile guardian must be conducted within 91 days of the most recent review hearing if it has been one year or less from the date the child was last removed from the home, or within 182 days of the most recent review hearing if it has been more than one year from the date the child was last removed from the home.
- (3) Lawyer-Guardian ad Litem. The appointment of the lawyer-guardian ad litem in the child protective proceeding terminates upon entry of the order terminating the court's jurisdiction pursuant to MCL 712A.2(b). At any time after a juvenile guardian is appointed, the court may reappoint the lawyer-guardian ad litem or may appoint a new lawyer-guardian ad litem if the court is satisfied that such action is warranted. A lawyer-guardian ad litem appointed under this subrule is subject to the provisions of MCL 712A.17d.

(D) Court Responsibilities.

(1) Annual Reviews.

- (a) Review on Condition of Child. The court shall conduct an annual review of a juvenile guardianship ~~annually as to the condition of the child until the child's eighteenth birthday.~~ The review shall be commenced within 63 days after the anniversary date of the appointment of the guardian. The court may conduct a review of a juvenile guardianship at any time it deems necessary. If the report of

by the juvenile guardian has not been filed as required by subrule (E)(1), the court shall take appropriate action.

- (b) Review on Extended Guardianship Assistance. If, under subrule (C)(1)(b), the Department of Health and Human Services has notified the court that extended guardianship assistance has been provided to a youth pursuant to MCL 400.665, the court shall conduct an annual review hearing at least once every 12 months thereafter ~~the youth's eighteenth birthday~~ to determine that the guardianship meets the criteria under MCL 400.667. The duty to conduct an annual review hearing on extended guardianship assistance shall discontinue when the youth is no longer eligible for extended guardianship assistance. Notice of the hearing under this subrule shall be sent to the guardian and the youth as provided in MCR 3.920(D)(1).
 - (i) The hearing conducted under this subrule may be adjourned up to 28 days for good cause shown.
 - (ii) If requested by the court, the guardian must provide proof at the review hearing that the youth is in compliance with the criteria of MCL 400.667.
 - (iii) Following a review hearing under this subrule, ~~the~~ the court shall issue an order to support its determination and serve the order on the Department of Health and Human Services, the guardian, and the youth.
- (c) Termination of Juvenile Guardianship. Upon receipt of notice from the Department of Health and Human Services that it will not continue guardianship assistance, the court shall immediately terminate the juvenile guardianship.

(2)-(4) [Unchanged.]

(E)-(F) [Unchanged.]

Staff Comment: The proposed amendment of MCR 3.979 would require a court to maintain jurisdiction over a juvenile guardianship for 120 days after a juvenile's 18th birthday in cases where DHHS is making an eligibility determination for extended guardianship assistance. The proposed revisions of MCR 3.979 also would reflect recent amendments of the Young Adult Voluntary Foster Care Act (MCL 400.669) and the Juvenile Code (MCL 712A.2a).

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Office of Administrative Counsel in writing or electronically by February 1, 2016, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2015-05. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 14, 2015

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk